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5 **UNITED STATES DISTRICT COURT**
6 **FOR THE WESTERN DISTRICT OF WASHINGTON**

7 KEITH O. FRANCIS

8 Plaintiff

9 vs.

10 J.C. PENNEY CORPORATION, INC.;
11 UNIVERSAL DEBT SOLUTIONS, INC.,
12 A GEORGIA CORPORATION; AND P.N.
13 FINANCIAL, INC., AN ILLINOIS
CORPORATION,

14 Defendants.

No. C09-5061-FDB

DEFAULT JUDGMENT

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16 This matter comes before the Court on Plaintiff's application for default
17 judgment. Having reviewed the papers submitted by the Plaintiff and previously entered
18 an order of default, the Court grants the motion for default judgment.
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20 **Introduction and Background**

21 On February 4, 2009, Plaintiff Keith O. Francis filed a complaint against the
22 defendants asserting (1) violations of the Federal Fair Debt Collection Practices Act, 15
23 USC § 1692; (2) violations of the Washington State Collection Agency Act (CAA), RCW
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1 19.16, et seq.; (3) violations of the Washington State Consumer Protection Act, RCW
2 19.18, et seq.; and (4) violations of the Fair Credit Reporting Act, 15 USC § 1681, et seq.

3 Plaintiff settled his claims against Defendant J.C. Penney Corporation and a
4 Stipulation and Order of Dismissal of Defendant J.C. Penney Corporation was entered.

5 Defendant Universal Debt Solutions Inc. (UDS) was served with a summons and
6 the complaint through its registered agent on March 4, 2009. UDS has failed to answer
7 Plaintiff's complaint or otherwise appear in this action.
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9 Defendant P.N. Financial. Inc. (PNF) was served with a summons and the
10 complaint through its registered agent on March 27, 2009. PNF has failed to answer
11 Plaintiff's complaint or otherwise appear in this action.

12 On February 4, 2010, the Court entered an Order of Default against Defendants
13 UDS and PNF. Plaintiff moved for default judgment. Defendants have not opposed this
14 motion.
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16 **Legal Standard for Default Judgment**

17 A court has the discretion to enter a default judgment against one who is not an
18 infant, incompetent, or member of the armed services where the claim is for an amount
19 that is not certain on the face of the claim and where (1) the defendant has been served
20 with the claim; (2) the defendant's default has been entered for failure to appear; (3) if the
21 defendant has appeared in the action, the defendant has been served with written notice of
22 the application for judgment at least three days before the hearing on the application; and,
23 (4) the court has undertaken any necessary and proper investigation or hearing in order to
24 enter judgment or carry it into effect. Fed. R. Civ. P. 55(b); Alan Neuman
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1 Productions, Inc. v. Albright, 862 F.2d 1388, 1392 (9th Cir. 1988). Factors that may
2 be considered by courts in exercising discretion as to the entry of a default
3 judgment include the nature and extent of the delay, Draper v. Coombs, 792 F.2d
4 915, 924-925 (9th Cir. 1986); the possibility of prejudice to the plaintiff, Eitel v.
5 McCool, 782 F.2d 1470, 1471-72 (9th Cir. 1986); the merits of plaintiff's substantive
6 claim, Id.; the sufficiency of the allegations in the complaint to support judgment,
7 Alan Neuman Productions, Inc., 862 F.2d at 1392; the amount in controversy,
8 Eitel v. McCool, 782 F.2d at 1471-1472; the possibility of a dispute concerning
9 material facts, Id.; whether the default was due to excusable neglect, Id.; and, the
10 strong policy underlying the Federal Rules of Civil Procedure that favors
11 decisions on the merits, Id.

12 The Court finds that the service here satisfies Fed. R. Civ. P. § 4(e), and
13 that Defendants were both properly served with process. Defendants did not
14 respond to the complaint.

15 Upon default, the well pleaded allegations of the complaint relating to
16 liability are taken as true. Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915,
17 917 (9th Cir. 1987).

18 Thus, at the time of entry of default, the facts alleged by the plaintiff in the
19 complaint are deemed admitted. The exception to this rule involves allegations
20 relating to the amount of damages, for which evidentiary support must be
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1 provided. Damages on default may be established via an evidentiary hearing,
2 declarations or affidavits, an accounting, or reference to a master or magistrate
3 judge. See Geddes v. United Financial Group, 559 F.2d 557, 560 (9th Cir. 1977).
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5 **Statutory Damages**

6 Plaintiff alleges that Defendants UDS and PNF made false representations
7 regarding the character, amount, or legal status of an account UDS and PNF
8 attempted to collect from Plaintiff in violation of 15 USC § 1692e(2)(A). Pursuant
9 to 15 USC § 1692k(a)(2)(A), any single violation of 15 USC § 1692e(2)(A) carries a
10 maximum statutory penalty of \$1,000. Therefore, Plaintiff is entitled to an award
11 of damages against UDS in the amount of \$1,000. and against PNF in the
12 amount of \$1,000 for violation of 15 USC § 1692e(2)(A). Pursuant to 15 USC §
13 1692k(a)(3), Plaintiff can recover attorney fees and costs against both PNF and
14 UDS.
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17 Both Defendants UDS and PNF attempted to collect an alleged debt in the
18 State of Washington. Neither UDS nor PNF are registered or licensed as out-of-
19 state collection agencies operating within the State of Washington, as required by
20 RCW 19.16.110. Neither UDS nor PNF are licensed to do business within the
21 State of Washington, in violation of RCW 19.16.120(2). Neither UDS nor PNF
22 have filed applications, or paid requisite fees and surety bonds for registration as
23 a collection agency within the State of Washington, in violation of RCW
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1 19.16.120(2) and (3). Pursuant to RCW 19.16.430, violation of RCW 19.16.110
2 carries a maximum statutory penalty of \$500. Therefore, judgment against PNF
3 in the amount of \$500, and judgment against UDS in the amount of \$500 is
4 appropriate.
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6 Pursuant to RCW 19.16.440, violation of RCW 19.16.110 qualifies as an
7 unfair and deceptive trade practice occurring in trade or commerce, under the
8 Washington Consumer Protection Act. RCW 19.86. et seq. Violation of the
9 Washington State Consumer Protection Act results in treble damages, not to
10 exceed \$25,000, in addition to attorney fees and costs. Therefore, pursuant to
11 RCW 19.86.090, it is appropriate to award Plaintiff treble damages (statutory
12 penalties) not to exceed \$25,000, in addition to attorney fees and costs against
13 both PNF and UDS, individually.
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16 Plaintiff alleged that both Defendants UDS and PNF willfully reported an
17 invalid debt affecting Plaintiff's credit rating with the major national credit
18 bureaus, after having been informed that the alleged debt was invalid and
19 having received sufficient proof that the alleged debt had been paid. Therefore, a
20 statutory penalty in the amount of \$1,000 is appropriate against both PNF and
21 UDS, individually, pursuant to 15 USC § 1681n(a)(1)(A). In addition, Plaintiff is
22 entitled to punitive damages in the amount of \$1,000 against both PNF and UDS,
23 individually, pursuant to 15 USC § 1681n(a)(2).
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1 This Judgment against UDS shall bear 12% interest per annum until paid in full.

2 **AGAINST P.N. Financial, Inc., an Illinois Corporation (PNF):**

3 Judgment is hereby entered against Defendant PNF, its successors and assigns, in
4 the amount of EIGHTEEN THOUSAND SIX HUNDRED THIRTY-FIVE DOLLARS
5 (\$18,635.00), itemized as follows:

6 (A) \$1,000 statutory damages pursuant to 15 USC § 1692k.

7 (B) \$1,000 statutory damages pursuant to 15 USC § 1681n.

8 (C) \$1,000 punitive damages pursuant to 15 USC § 1681n.

9 (D) \$500 statutory damages pursuant to RCW 19.16.430.

10 (E) Treble damages (\$10,500) pursuant to RCW 19.86.090.

11 (F) One half of Attorney fees and costs expended by Plaintiff: \$3,375.

12 (G) Prejudgment interest on damages at 12% per annum (\$1,260.00).

13 This Judgment against PNF shall bear 12% interest per annum until paid in full.

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15 ENTERED this 24th day of February, 2010.

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21 FRANKLIN D. BURGESS
22 UNITED STATES DISTRICT JUDGE
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